

**PLANNING AND ZONING COMMISSION
MAY 8, 2013
CITY HALL'S COUNCIL CHAMBERS @ 5:00 P.M.**

P&Z PRESENT

Ned Sheats
Abiel Flores
Carlos Lopez
Mario Garza
Diana Izaguirre
Marisela Marin

P&Z ABSENT

Rene Flores

STAFF PRESENT

Daniel Tijerina
Bobby Salinas
Irasema Dimas

GUEST PRESENT

Leo Rodriguez
Eleazar Fernandez
Oziel Lopez
Hilda M. Martinez
Jaime Salazar
Brenda Cortez
Adrian Rodriguez
Marco Hinojosa
Raquel Garcia

CALL TO ORDER

Vice-Chairman Ned Sheats called the meeting to order at 5:01 p.m.

CITIZENS PARTICIPATION

Vice-Chairman Ned Sheats asked if there was any citizens' participation.

There was no response.

APPROVAL OF MINUTES FOR APRIL 24, 2013

Vice-Chairman Ned Sheats asked if there were any corrections to the minutes for April 24, 2013. Mrs. Marisela Marin moved to approve the minutes as presented. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:02 p.m.

Ended: 5:18 p.m.

ITEM #1.1

Rezoning:

**A 6.299 acre tract of land out of
Lot 5, Miller Bros. Nursery Re-Subd.
AO-I to R-2
Nora Davila**

Mr. Bobby Salinas went over the write up stating that the subject site is located approximately 300' south of Mile 2 south of Hillcrest Drive. The site measures 326.01' x 843.04'. Access to the site will be from Hillcrest Drive. (NOTE: This property will still need to go through the subdivision process after the re-zoning).

SURROUNDING ZONES: N: R-1 – Single Family Residential
 E: R-1 – Single Family Residential
 W: AO-I – Agricultural Open Interim
 S: R-1 – Single Family Residential

LAND USES: N: Single Family Subdivision
 E: Single Family Subdivision
 W: Ranch Setting
 S: Single Family Subdivision
 Site: Open Acreage

The Future Land Use Map reflects a Low Density Residential (LD) designation for the area.

The property is surrounded by existing single family residential lots to the north, east, and south. The future land use map also shows this land as LD, which is intended for future single family residential homes. Due to the existing single family residential zones and uses, staff recommends denial.

Vice-Chairman Ned Sheats asked if there was any public opposition to the request.

Mrs. Hilda Martinez from 2007 Giselle stated that there are several apartments behind them and there has being a lot of violence within the last year; she stated that the Police Department found two bodies either killed there or dropped off there. She stated that their kids like to play outside and they are just worried that they don't know who would be driving through the street or speeding.

Ms. Diana Izaguirre asked Mrs. Martinez if she was referring to the existing apartments that were along 2 Mile Road.

Mrs. Hilda Martinez replied 'yes'.

Mrs. Brenda Cortez stated that the existing apartments only access from Moorefield or Inspiration. She stated that there has being several break-ins in their neighborhood and the thieves have being chased to the fields and the neighbors have noticed that mostly they have been younger kids which live in the apartment area cause problems. She mentioned that they live in nice homes (not upscale) but they are very neighborly with each other and they all talk about the same issue, the apartments in the area have brought too much violence and traffic. She stated that the kids like to play outside since there is a lot of traffic flow, as parents they alternate to watch the kids especially since the properties don't have a big back yard to play in.

Vice-Chairman Ned Sheats stated that he would recommend to staff to defer this information to the Police Department.

Ms. Diana Izaguirre asked Mr. Daniel Tijerina if they have submitted a plat for the property.

Mr. Daniel Tijerina replied that they have received the plat and that Mr. Leo Rodriguez the engineer was present in the audience representing the applicant. He also stated that staff has reviewed the plat and he also had an opportunity to speak with the applicant and advise her of staff's recommendation.

Vice-Chairman Ned Sheats asked if the applicant or representative were present.

Mr. Leo Rodriguez stated that he was representing Ms. Davila and what she was proposing to do was 4-plexes 1 story buildings. He stated that Ms. Davila is even willing to make it a gated subdivision.

Mr. Rodriguez started addressing his comments to the audience.

Vice-Chairman Ned Sheats asked Mr. Rodriguez to please address his comments to the board.

Mr. Rodriguez apologized for that.

Vice-Chairman Ned Sheats stated that Mr. Rodriguez expressed that the applicant was willing to make it a gated community and he was wondering if it would be allowed with that type of access.

Mr. Daniel Tijerina stated that they would look at it through the subdivision process and right now what's on the table is the rezoning and based on what's being presented and the Future Land Use Map designation staff is not recommending favorably to the change in zone. Mr. Rodriguez didn't know if Ms. Davila would be open to do a single family subdivision which would fall in line with what's existing in the area.

Mrs. Marisela Marin asked Mr. Tijerina that based on the mail out list a lot of people were notified and besides the ones present if there were any other comments against the request.

Mr. Daniel Tijerina replied that he was not aware of any other people in opposition.

Mr. Mario Garza stated that he would like to see this property developed as residential not apartments.

Mr. Daniel Tijerina stated that the applicant would need to agree with or maybe she would like to keep it as AO-I.

After a brief discussion, Vice-Chairman Ned Sheats entertained a motion. Mrs. Marisela Marin moved to deny the rezoning as per staff's recommendations. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:18 p.m.

Ended: 5:25 p.m.

ITEM #1.2

Conditional Use Permit:

Home Occupation – "Notary, Income Tax and Insurance Office"

1208 Hunter St.

Lot 90, North Park Estates Subdivision R-1

Eleazar Fernandez

Mr. Bobby Salinas went over the write up stating that the subject site is located approximately 300' east of Los Ebanos Road along the south side of Hunter Street. Mr. Fernandez wishes to have a notary, Income Tax and insurance business from his home.

- **Hours of Operation:** Every day from 9:00 a.m. to 7:00 p.m.
- **Staff:** Only the applicant will run the business office.
- **Parking:** There is an existing 4 car driveway that will be available for parking.

The applicant is proposing to have a home office that will offer Notary, Income Tax, and Insurance Services. Though a CUP of this nature is permissible through our Zoning Code via Section 1.56 (1), during a City Council meeting held on 1/14/13, it was expressed that CUP's of this nature should be located within a commercial area due to traffic produced at such a business.

Staff recommended denial due to the following: 1) due to the proposal of 3 different businesses, it is normally only one business per Home Occupation, 2) staff is concerned with the potential increase of non-residential traffic due to the 3 businesses, and 3) the proposed days and hours of operation being everyday from 9:00 a.m. to 7:00 p.m. which may extend past 7:00 p.m. during the tax season. Mr. Bobby Salinas stated that the applicant had submitted a petition showing 50% of those that received notice of the meeting in favor of the conditional use permit.

Vice-Chairman Ned Sheats asked if there was any public opposition to the request.

There was no response.

Vice-Chairman Ned Sheats asked if the applicant or representative were present.

Mr. Eleazar Fernandez was present to answer any questions from the board.

Vice-Chairman Ned Sheats stated that he was proposing a rather large business.

Mr. Eleazar Fernandez stated that it was not large at all; he mentioned that he included the insurance just in case if he sells a policy. He stated that he doesn't foresee that the insurance would be 10% of what he does; his primary business is the income tax and notary work.

Vice-Chairman stated that the main concern was the number of businesses within the same location and that one might pick up and the other at the same time. He also mentioned that there's a consideration on safety on a residential street. He stated that he knows there are several areas within the city that would be able to rent a small office area for this kind of business.

Mr. Eleazar Fernandez stated that his main business is the income tax service and that's only 3 months, and the notary work is not a lot.

Vice-Chairman Ned Sheats stated that the paperwork that needs to be notarized would need to be brought to him.

Mr. Abiel Flores stated that it sounds like is an income tax business and he only added the insurance and he asked Mr. Eleazar Fernandez what was the type of insurance that he sells.

Mr. Eleazar Fernandez replied that it was AFLAC.

Mr. Abiel Flores asked if they were supplemental insurances.

Mr. Eleazar Fernandez replied that there were. He stated that he usually doesn't sell out of the house he goes out to trainings and sells but he included that in the conditional use permit just in case that he sells one out of his residence.

Mrs. Marisela Marin stated that she was with staff's recommendation and she believed that there were several offices within the City of Mission that could

rent a single office space for this type of business. She stated that she believed that residential should stay residential.

Mr. Mario Garza stated that in his opinion he knows other people that do the same thing in their houses and their main thing is the Income Tax service and he hasn't seen traffic congestion.

Vice-Chairman Ned Sheats asked for a motion.

Mrs. Marisela Marin moved to deny the conditional use permit as per staff's recommendation.

Vice-Chairman Ned Sheats stated that the motion dies for lack of a second.

Vice-Chairman Ned Sheats entertained a motion. Mr. Mario Garza moved to approve the conditional use permit subject to a 1 year re-evaluation. Mr. Abiel Flores seconded the motion. Upon a vote with Mrs. Marisela Marin dissenting, the motion passed 4-1.

Started: 5:25 p.m.

Ended: 5:27 p.m.

ITEM #1.3

Conditional Use Permit:

**Sale & On-Site Consumption of
Alcoholic Beverages – La Calle Del Taco
115 E. Expressway 83
Lot 3, El Pueblo Phase I Subdivision
C-3
CDT Main, LLC**

Mr. Bobby Salinas went over the write up stating that this 6,006 sq.ft. restaurant site is located within a plaza approximately 600' east of Conway Ave. along the north side of the frontage road of Expressway 83. This restaurant has been in operation since 5/25/11. The owner now wishes to offer beer and wine with the food.

- **Hours of Operation:** Monday – Friday 6 a.m. to 11 p.m., Saturdays 8 a.m. to 11 p.m. & Sundays 8 a.m. to 10 p.m. Alcoholic beverages will only be served during allowable State selling hours.
- **Staff:** 15
- **Parking:** Viewing the floor plan, there are 140 total seating spaces for the restaurant, which require 47 parking spaces (140 seats/3 =46.6 parking spaces). It is noted that the parking area is held in common (225 existing parking spaces) and is shared with other businesses. The parking area is also connected and has access to existing, interlocking parking lots.

There is an existing seafood restaurant (Villa Del Mar) that currently sells alcohol, within the same plaza. This proposal, like Villa Del Mar, does not have a 'bar' component and would not be open after 11 p.m. Since the sale of alcohol does not seem to be the primary intent and has worked at this plaza before, staff does not object to this proposal. Additionally, notices were sent to property owners within a 200' radius of the site and there have been no comments in favor or against this request forwarded to the Planning Department.

Staff recommended approval subject to a 1 year re-evaluation to assess this operation.

Vice-Chairman Ned Sheats asked if there was any public opposition to the request.

There was no response.

Vice-Chairman Ned Sheats asked if the applicant or representative was present.

There was no response.

There being no discussion, Vice-Chairman Ned Sheats entertained a motion. Mrs. Marisela Marin moved to approve the conditional use permit as recommended by staff. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

Started: 5:27 p.m.

Ended: 5:42 p.m.

ITEM #1.4

Conditional Use Permit:

**Auto Mechanic Shop in an AO-I zone
1603 Adams St.**

**A .85 acre tract of land out of Lot 23-1,
West Addition to Sharyland Subd.**

AO-I

Marco A. Hinojosa, Sr.

Mr. Bobby Salinas went over the write-up stating that the site is located 105' north of W. 18th Street along the west side of Adams Street. The lot measures 100' x 368.5' (36,850 sq.ft.). The site currently has an existing masonry building with four bays for auto mechanic work. The applicant wishes to re-open the previously existing auto mechanic shop. Access to the site is from Adams Street.

On August 25, 1997, the City Council held a public hearing to consider a Conditional Use Permit for a mechanic shop at this location. The CUP was approved by both P&Z and City Council at that time for a period of 2 years due to the mechanic shop having the potential of accumulating car and auto parts on the property within the residential area.

- **Hours of Operation:** Monday – Saturday from 8 a.m. to 6 p.m.
- **Staff:** 2 employees will run the shop
- **Parking:** There is a large asphalt area available for customer parking. There is enough room for 10+ to be parked on site.
- Must comply with Fire and Building Codes prior to acquisition of a business license.

This mechanic shop is in the midst of a residential neighborhood; however it has been a mechanic business for several years. Staff would not object to a new operator of the business so long as the new applicant keeps the area free from accumulation of vehicles and does all mechanic work wholly within the bays of the masonry building. The applicant would also have to meet the City's landscaping code, which would include the installation of an 8' opaque fence (cedar or block) along the north, west, and south side of the property and a minimum of 3 – 7' tall 3" caliper shade trees along the Adams Street frontage and hedges.

Staff sent notices to the property owners within 200' of the site. We did receive one complaint in regards to re-opening the shop.

Staff recommended approval subject to: **1)** a 1 year re-evaluation to assess this new business, **2)** completely buffer the auto shop site, **3)** must comply with the landscaping code, **4)** must comply with the Fire and Building codes, and **5)** must acquire a business license prior to occupancy.

Vice-Chairman Ned Sheats asked if there was any public opposition to the request.

There was no response.

Vice-Chairman Ned Sheats asked if the applicant or representative was present.

Mr. Marcos Hinojosa Sr. was present to answer any questions.

Vice-Chairman Ned Sheats asked Mr. Marcos Hinojosa the time frame that the business has been closed.

Mr. Marcos Hinojosa replied that he didn't know.

Mrs. Marisela Marin asked if it was 1 or 2 years.

A person from the audience replied that it has being closed for a year and a half.

Vice-Chairman Ned Sheats asked if they could give the board more information as to what type of work would be offered at the mechanic shop if it would be a standard garage if it will include painting or any body work.

Mr. Marcos Hinojosa replied that it would be a minor auto mechanics nothing real heavy, no engine work.

Mr. Mario Garza stated that, Frank, his mechanic used to be there before he moved out; and the mechanic shop has being there for a long time. He mentioned that some of the residences were built after the mechanic shop was there and the neighbors are familiar to the mechanic shop. He stated that he doesn't foresee any problems as long as they comply with the requirements.

Mrs. Marisela Marin asked that staff stated that there was a complaint.

Mr. Bobby Salinas replied that it was just a simple phone call stating that they didn't want the mechanic shop to re-open.

Vice-Chairman Ned Sheats stated that the issue that he sees here was that a little while ago staff was against rezoning a property to R-2 right next to an R-1 and in this case they are trying to get a commercial zone approved in the middle of residences; he mentioned that it appears that the business has being closed for a 1 ½ to the best information that they received. He stated that the support to this CUP seems to be inconsistent with the zoning ordinance, FLUM designation. He mentioned that back in 1997 when the original CUP was approved for 2 years Councilman Ramirez expressed a concerned on the amount of vehicles that were at the site. He asked Mr. Daniel Tijerina if this applicant was the same that applicant that received the approval back in 1997.

Mr. Daniel Tijerina stated that based on the minutes the 1997 applicant was Raquel Garcia.

Ms. Diana Izaguirre asked if it was for Life of Use.

Mr. Daniel Tijerina replied that it was, however whenever the use ceases the life of use it dies.

Vice-Chairman Ned Sheats stated that based on the information given that the conditional use permit was granted for only 2 years back in 1997, he does not

recollect seeing this item ever on any agenda since he's been part of the board.

Mr. Daniel Tijerina stated that if he may clarify to the board members that the item on this agenda is only for a conditional use permit not a rezoning. He believed that the use continued without ever coming back to the board for another approval until a 1 ago.

Vice-Chairman Ned Sheats stated that than the business has been illegally operating for 7 years.

Mr. Daniel Tijerina replied that it was until a 1 ½ ago.

Vice-Chairman Ned Sheats asked if staff knows if the business had a valid business license for the entire time.

Mr. Daniel Tijerina replied that not at this time, but they could certainly look into the records.

Vice-Chairman Ned Sheats stated that he didn't want to take up more time with his concerns.

Mr. Mario Garza stated that he personally doesn't see a problem and would like to move to approve the conditional use permit as per staff's recommendation. Ms. Diana Izaguirre seconded the motion. The motion was approved 3-1 with Mrs. Marisela Marin dissenting.

Mr. Carlos Lopez stated that he wanted to abstain from voting, since he knows the owner, the applicant, and his cousin lives right next to the site.

Mr. Abiel Flores asked if Mr. Marcos Hinojosa was the owner of the property.

Mr. Daniel Tijerina stated that Mr. Hinojosa was only renting the property.

Mrs. Raquel Garcia, from 1114 Blake Street stated that she owns the property.

Vice-Chairman Ned Sheats asked if Mr. Hinojosa was the same renter as back in 1997.

Mrs. Raquel Garcia replied that he was not the same person and he has nothing to do with the previous renter.

After a brief discussion, Vice-Chairman Ned Sheats entertained a motion. Mr. Mario Garza move to approve the conditional use permit as per staff's recommendation. Ms. Diana Izaguirre seconded the motion. The motion was

approved 3-1 with Mrs. Marisela Marin dissenting and Mr. Carlos Lopez abstaining.

Started: 5:42 p.m.

Ended: 5:44 p.m.

ITEM #2.0

Site Plan Approval:

**Expansion of Existing
Sharyland Utilities Substation
Lot 7-9, 8-9, 8-10, W.A.S. Subdivision
AO-I
Michels Power**

Mr. Bobby Salinas went over the write-up stating that this property is located 1,500' south of Los Indios along the east side of Mayberry Road. The proposed improvements will be located along the southern perimeter of the site.

Sharyland Utilities wishes to expand the existing electrical substation in order to provide better electrical service to the area.

During the original construction of the electrical substation, In 2006, it was explained that this site was an unmanned site, with one possible visit of 3 days a year for maintenance, where the owner installed an 8" water line along the east side of Mayberry Road in order to provide fire protection to the site. A septic tank was installed for the restroom facilities as part of the first building permit.

Since this is simply an expansion to what currently exists and will benefit the entire area, staff does not object to this request.

Mrs. Marisela Marin asked if when they first did the first stage they showed this this proposal.

Vice-Chairman Ned Sheats replied that they did.

Mrs. Marisela Marin asked how much noise would be created.

Mr. Bobby Salinas replied that there would not be any noise.

Vice-Chairman Ned Sheats stated that if anything it would be a little hum mm noise.

Vice-Chairman Ned Sheats asked if there was any input from the Board.

There was no response.

Vice-Chairman Ned Sheats asked if the applicant or representative was present.

There was no response.

There being no further discussion, Vice-Chairman Ned Sheats entertained a motion. Mr. Carlos Lopez moved to approve the site plan approval as recommended by staff. Mr. Mario Garza seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #3.0
ADJOURNMENT

There being no further items for discussion, Mr. Abiel Flores moved to adjourn the meeting. Mr. Carlos Lopez seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 5:46 p.m.

Ned Sheats, Vice-Chairman
Planning and Zoning Commission